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DEPARTMENT OF
WATER RESOURCES

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Counsel for the State of Idaho

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

)
) Subcase Nos. 01-02017, 01-02032,
) 01-02046, 01-10382, 01-10383, 01-10384,
) 01-10531, and 01-10532
) (American Falls Hydropower Natural Flow
) Subcases)

)
) Subcase Nos. 01-10485, 01-10486,
) 01-10487, and 01-02064
) (American Falls Hydropower Storage
) Subcases)

)
) **MOTION FOR PARTIAL SUMMARY**
) **JUDGMENT**
)

A. **AMERICAN FALLS HYDROPOWER NATURAL FLOW SUBCASES: 01-02017, 01-02032, 01-02046, 01-10382, 01-10383, 01-10384, 01-10531, AND 01-10532.**

The State of Idaho, by and through the undersigned deputy attorney general, hereby moves the Court, pursuant to Idaho Rule of Civil Procedure 56, for entry of a summary judgment

order on the following issues in the above-captioned American Falls Hydropower Natural Flow Subcases: (A) that Idaho Power's natural flow claims at American Falls be disallowed; or in the alternative, (B) if the Court denies the State's motion to disallow Idaho Power's natural flow claims and subsequently determines that some or all of the claims should be allowed, that any decrees resulting from those claims include the subordination remark set forth in the Director's Report.

B. AMERICAN FALLS HYDROPOWER STORAGE SUBCASES: 01-10485, 01-10486, 01-10487, AND 01-02064.

The State of Idaho, by and through the undersigned deputy attorney general, hereby moves the Court, pursuant to Idaho Rule of Civil Procedure 56, for entry of a summary judgment order on the following issues in the above-captioned American Falls Hydropower Storage Subcases: (A) whether any hydropower storage at American Falls should be decreed in the USBOR's storage subcase, no. 01-02064, and thus, Idaho Power's storage claims at American Falls should be disallowed; and (B) whether the storage for hydropower at American Falls should be decreed in the name of the United States in the amount of ~45,000 acre-feet (2.65% of reservoir storage capacity).

The grounds for this partial summary judgment motion are set out in the State of Idaho's *Brief in Support of Motion for Partial Summary Judgment* and the *Affidavit of David I. Stanish*.

Oral argument on this motion will take place on February 4, 2010 at 1:30pm.

PRAYER FOR RELIEF

1. That the Court enter a summary judgment order finding that in the above-captioned American Falls Hydropower Natural Flow Subcases: (A) that Idaho Power's natural flow claims at American Falls should be disallowed; or in the alternative, (B) if the Court denies

the State's motion to disallow Idaho Power's natural flow claims and subsequently determines that some or all of the claims should be allowed, that any decrees resulting from those claims should include the subordination remark set forth in the Director's Report.

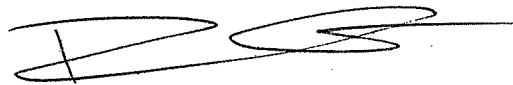
2. That the Court enter a summary judgment order finding that in the above-captioned American Falls Hydropower Storage Subcases: (A) Idaho Power's storage claims at American Falls be disallowed; and (B) storage for hydropower at American Falls be decreed only in the name of the United States in the amount of ~45,000 acre-feet (2.65% of reservoir storage capacity).

3. That the Court grant such other and further relief as it deems proper and just.

RESPECTFULLY SUBMITTED this 4th day of December 2009.

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

A handwritten signature in black ink, appearing to read 'D. Stanish', written over a horizontal line.

DAVID I. STANISH
Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that on this 4th day of December 2009, I caused to be served the original and copies of the **MOTION FOR PARTIAL SUMMARY JUDGMENT** on the following persons by the methods indicated:

1. Original to:

CLERK OF THE DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
PO BOX 2707
TWIN FALLS, ID 83303-2707

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2. Copies to:

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